

ATTACHMENT 1

2019 Housing Related Legislation

AB 101, AB 325, AB 671, AB 957, AB 1486, SB 6, SB 113 and SB 235 (Housing Element)

The language relating to parking for emergency shelters has been modified to state that the objective standard may include sufficient parking to accommodate all staff working in the emergency shelter, rather than a demonstrated need, provided that parking requirements do not exceed other residential or commercial uses in the same zone. This act also includes the program of actions that must be included in the housing element such as a plan that incentivizes and promotes the creation of ADUs that can be offered at affordable rent for very low, low, and moderate-income households. In addition, the land inventory for the Housing Element must be prepared using standards, forms, and definitions adopted by HCD and the land inventory, along with the Housing Element or amendment adopted after January 1, 2021 must be submitted electronically to HCD.

The amendment also includes specific timelines for submittal of draft Housing Elements to HCD for review and response to HCD comments. In addition, it outlines the process for the Attorney General's actions for violations of the Housing Element provisions and the penalties.

AB 1486 and AB 1255 (Surplus Land Provisions)

The procedures for identifying and disposing of surplus property were modified to make more land available for housing. Local agencies are now required to create a central inventory of all surplus land as defined in section 54221 as well as any other land in excess of its foreseeable needs located in all urbanized areas and urban clusters within its jurisdiction. The list is required to be created by December 31st of each year and a description of each identified parcel is required. The information is to be reported to HCD no later than April 1st of each year, commencing in 2021.

AB 1743 (Prohibition against Discrimination)

Section 65008 prohibits a local agency from discriminating against an individual or group with relationship to the enjoyment of residence, landownership, tenancy, or any other land use. Forbidden grounds of discrimination include the method of financing. This section has been amended to add a definition for "method of financing" that includes eligibility to claim a welfare exemption under Revenue & Taxation Code section 214(g).

AB 1486 and SB 235 (Administration of General Plan)

Government Code section 65400 requires cities and counties to make an annual report to the legislative body, the Office of Planning and Research (OPR) and the Department of Housing and Community Development (HCD) regarding general plan implementation by April 1st of each year; the report requires detailed information on the city's progress relating to housing. The reporting requirements have been amended to require

additional information be provided if a city or county has received funds pursuant to the Local Government Planning Support Grants Program. (SB 235, § 1.)¹

The annual reporting requirements were further amended by adding a new section 65400.1 which requires the planning agency to include a listing of sites that were on the inventory list prepared as part of the Housing Element that were sold, leased, or otherwise disposed of in the prior year, including a list as to the acquiring entity and the intended use for the site. (AB 1486, § 14.)

SB 330 and AB 1743 (Housing Accountability Act)

The Housing Accountability Act and relates to the approval of housing development projects. In addition to setting forth numerous legislative findings regarding housing, this section requires specific written findings to be made based on the preponderance of the evidence when a housing project is disapproved or conditioned so as to lower the density. Section 65905.5 was added through January 1, 2025, to allow only five public hearings on a housing development except projects that require legislative approvals.

AB 101 (Low Barrier Navigation Center)

This legislation defines a “Low Barrier Navigation Center” as a “Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelters and housing.” A Low Barrier Navigation Center is considered to be a use allowed by right in all mixed-use and non-residential zones permitting multifamily uses if it meets the specified requirements.

SB 330 (Housing Development Approval)

Section 65905.5 was added through January 1, 2025, to allow only five public hearings on a housing development. This applies to noticed public hearings which are held pursuant to Government Code section 65905 which references variances, conditional use permits, or other development permits. This includes “any hearing, workshop, or similar meeting conducted by the city with respect to the housing development project. This requirement does not apply to legislative approvals.

AB 1763 (Density Bonus)

The list of developments which are entitled to a density bonus has been expanded to include a development where 100% of the total units, exclusive of a manager’s unit, are for lower income households, except that 20% of the total units may be for moderate-income houses.

If the project is located within ½ mile of a major transit stop, the applicant may receive a height increase of up to 3 additional stories, or 33 feet, plus an additional four incentives or concessions. These projects shall receive an 80% density bonus based on the number of units for lower income households; no limits on density shall be allowed if the development is within ½ mile of a major traffic stop. When a development that is 100% affordable to lower income families *and* either a special needs housing development or a supportive housing development, then there may not be any minimum vehicular parking requirement if requested by a developer.

AB 1483 and SB 330 (Development Permits)

AB 1483 adds a new section regarding development permits. Under this new section, cities, counties and special districts are required to make specified information available on their websites including a current schedule of fees, including park fees, and affordability requirements applicable to housing development projects; all zoning ordinances and development standards that specify the zoning, design and development standards applicable to each parcel; the list of information required for an application; the current and five previous annual fee reports or annual financial reports required under the Mitigation Fee Act; and an archive of impact fee nexus studies, cost of service studies, or the like conducted after January 1, 2018. If any of this information is updated, it must be made available on the website within 30 days of a change. Housing development projects include mixed-use projects that are at least two-thirds residential, as well as transitional and supportive housing.

SB 330 amends sections related to preliminary review, incomplete application letters and shortens the review period for housing development through January 1, 2025.

AB 101 (Funding Programs)

Local Government Planning Support Grant Program – up to \$300,000 for cities with over 60,000 population provides one-time funding for planning activities to enable jurisdictions to meet the sixth cycle of the regional housing needs assessment. A jurisdiction that receives an allocation must submit a report in the form prescribed by HCD on its website by April 1 of the year following receipt of the funds, and annually thereafter until the funds are expended; the form must contain the specified information. HCD may request the repayment of funds or pursue other remedies for failure to comply with program requirements.

Infill Structure Grant Program - allocates funds to capital improvement projects that are necessary to facilitate the development of qualifying infill projects or qualifying infill areas. The funds are to supplement, not supplant, other funding. The qualifying project or infill area must:

- Be in a jurisdiction which has a compliant Housing Element and has submitted its annual reports since 2017;
- Include not less than 15 percent of affordable units;
- Include average residential densities that are at least as specified in Government Code section 65583.2(c)(3)(B);
- Be located in an area designated for mixed-use or residential development.

Small Jurisdictions - A total of \$410,000,000 has been allocated to small jurisdictions and will be administered by an over-the-counter application process. A notice of funding availability is to be released by HCD by November 30, 2019.

- A “qualifying infill area” is a contiguous area located in an urbanized area that is either: included on the inventory of land suitable for residential development contained in the Housing Element where at least 50% of the perimeter adjoins urban uses; or a capital improvement project necessary to make the area suitable and available for residential development or to accommodate housing

for additional income levels, and the area otherwise meets the requirements for being included in the land inventory of the Housing Element and at least 50% of the perimeter adjoins urban uses.

- A “qualifying infill project” is a residential or mixed-use residential project located within an urbanized area on a site previously developed, or on a vacant site where at least 50% of the perimeter adjoins parcels developed with urban uses.

SB 196 (Community Land Trust)

Adds a new property tax exemption for property owned by a community land trust that is developed into housing projects for single-family, multifamily, owner-occupied, and rental housing developments, provided those projects meet the criteria set forth and makes other related changes.

AB 1743 (Welfare Tax Exemption)

Cities cannot disapprove or make infeasible an affordable housing development unless the city finds that the development would have a specific adverse impact on public health and there is no feasible method to mitigate the impact. AB 1743 adds a project’s eligibility for a welfare exemption to those factors, which also include inconsistency with the city’s zoning ordinance or general plan land use designation that cannot constitute a specific adverse impact on public health under the Act.

Previous Housing Legislation

With new housing legislation (SB 167, AB 678, AB 1515, AB 879 and AB 72 passed in 2017 and 2018), cities are under more pressure to follow state requirements in terms of Housing Element updates and annual reporting of progress toward meeting local RHNA allocations due to the linkage of performance under state housing law and certain state funds and potential penalties for non-compliance. To update the Housing Element and meet its RHNA obligations, the City will first need to identify sites where housing could be developed at a minimum density of 30 dwelling units per acre. Furthermore, the City will need to adopt policies and programs to ensure that these sites are available to developers and are encouraged to be developed. The following discusses the process that the City will need to follow to complete the 6th Housing Element Cycle.

Other enrolled (but not yet approved) legislation also may revise ADU laws. For example:

- AB 68 – additionally prohibits cities from establishing lot coverage and lot size requirements that would prohibit the installation of at least 800 square foot ADUs with rear and side-yard setbacks of four feet.
- AB 69 – Requires the Department of Housing and Community Development (HCD) to submit standards for ADUs and Junior ADUs.
- AB 670 – Requires common interest developments (e.g., homeowners associations) to allow certain ADUs despite their covenants, conditions and regulations (“CC&R’s”).

- AB 671 – Requires cities to incentivize the development of ADUs in the housing element
- AB 881 – ADU bill similar to SB 68 and SB 13.